

Timothy J. Lockhart  
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25459.001

March 14, 2012

Via E-Mail ([auctions@aprilbrown.com](mailto:auctions@aprilbrown.com))

Ms. April Brown  
April Brown Auction Service  
1620 N. 183rd Street  
Shoreline, Washington 98133

Re: "The Dash" by Linda M. Ellis

Dear Ms. Brown:

This firm represents Linda M. Ellis, doing business as Linda's Lyrics, with respect to intellectual property matters. Ms. Ellis is the author and copyright owner of an inspirational poem entitled "The Dash." In 1998 Ms. Ellis registered her copyright in the poem with the U.S. Copyright Office. We attach for your reference a copy of Ms. Ellis's copyright registration certificate.

We understand that you recently posted "The Dash" online despite knowing that Ms. Ellis is the author and copyright owner of the poem. Because you did not seek, and Ms. Ellis did not give to you, permission to reproduce and distribute "The Dash" online, your doing so infringed Ms. Ellis's rights under Section 106, "Exclusive rights in copyrighted works," of Title 17 of the U.S. Code.

We also understand that when Ms. Ellis sought redress for your copyright infringement, you claimed on your website aprilbrown.com that by posting "The Dash" without her permission you somehow intended "to support Ms. Ellis." We fail to see how your knowingly infringing her copyright supported Ms. Ellis. Moreover, although you claimed that "at no time did [you] benefit" from posting the poem, you admitted that you posted it expressly "to inspire people to volunteer and support [your organization] Whisker City and the many non-profits [you work] with." Thus, by your own admission you posted "The Dash" in the hope that doing so would benefit you both directly and indirectly.

We further understand that you have claimed "Ms. Ellis benefitted from [your] endorsement and promotion of her website." Again, we fail to see how endorsement and promotion by an admitted copyright infringer benefitted Ms. Ellis. In any case, Ms. Ellis, as the copyright

I-1087552.1

Reply to Norfolk Office

440 MONTICELLO AVENUE SUITE 2200 NORFOLK, VA 23510 757.628.5500 FACSIMILE 757.628.5566  
222 CENTRAL PARK AVENUE SUITE 1500 VIRGINIA BEACH, VIRGINIA 23462 757.628.5600 FACSIMILE 757.628.5659

WWW.WILCOXANDSAVAGE.COM

Ms. April Brown  
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owner of "The Dash," has the exclusive right to choose how, when, where, and by whom her poem will be used, regardless of whether or not any such use benefits her. In other words, it is not up to you or anyone else to "benefit" Ms. Ellis by using "The Dash" without her permission.

Other entities that have infringed Ms. Ellis's copyright in "The Dash" have acknowledged their mistake, apologized, and compensated Ms. Ellis for their unauthorized use of her famous and valuable poem. You, however, seem unwilling to do what is clearly the right thing. When Ms. Ellis confronted you with the fact of your infringement, instead of attempting to negotiate a mutually satisfactory resolution of the matter, you resorted to ridiculing Ms. Ellis on your website and even on her own Facebook page. Is that how a self-described "strong advocate for women in business" should act toward another businesswoman with a legitimate legal claim?

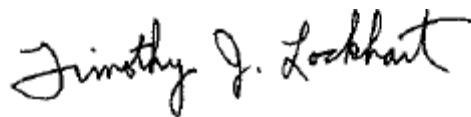
Given your statement that, as an author yourself, you understand "the importance of protecting intellectual property," your apparent unwillingness to make things right with Ms. Ellis is an ironic position for you to take but one with which you strangely seem comfortable.

Under the circumstances, Ms. Ellis is willing to settle the matter for a payment to her of \$2,500. That figure represents the lowest amount (\$750) of statutory damages for copyright infringement provided by Section 504(c)(1), "Remedies for Infringement; Damages and profits," of Title 17 of the U.S. Code plus compensation for the damage done to Ms. Ellis's professional reputation and for the legal fees Ms. Ellis has been forced to incur in this matter. Ms. Ellis also requires that you delete all references to her that you have posted on the Internet. Ms. Ellis will reciprocate by refraining from posting any references to you or this matter.

Please let me know, either directly or through your attorney, by Friday, March 23, 2012, whether you are willing to settle the matter on the foregoing basis. If you are, Ms. Ellis will bear the expense of preparing a short-form settlement agreement for execution by each party.

Also, please note that this letter is offered without prejudice to any of Ms. Ellis's substantive rights under Rule 408 of the Federal Rules of Evidence and corresponding state rules.

Very truly yours,

A handwritten signature in black ink that reads "Timothy J. Lockhart". The signature is written in a cursive, flowing style.

Timothy J. Lockhart

TJL:pd  
Attachment

cc: Linda M. Ellis (w/o attach.)

# CERTIFICATE OF REGISTRATION



This Certificate issued under the seal of the Copyright Office in accordance with title 17, United States Code, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

*Marybeth Peters*

REGISTER OF COPYRIGHTS  
United States of America

FORM TX

For a Nondramatic Literary Work  
UNITED STATES COPYRIGHT OFFICE

TXu 858-108



EFFECTIVE DATE OF REGISTRATION

6 15 98

Month Day Year

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

TITLE OF THIS WORK ▼

*The Dash*

PREVIOUS OR ALTERNATIVE TITLES ▼

*none*

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

*n/a*

If published in a periodical or serial give: Volume ▼ Number ▼ Issue Date ▼ On Pages ▼

NAME OF AUTHOR ▼

*a Linda M. Ellis*

Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE Name of Country

OR Citizen of *USA*  
Domiciled in

DATES OF BIRTH AND DEATH Year Born ▼ Year Died ▼

*1962*

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No  
Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

*a 36 line - 9 paragraph poem regarding the dash between birth and death*

NAME OF AUTHOR ▼

Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No

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YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

*a 1996*

This information must be given in all cases.

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published.

Month Day Year

Nation

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2. ▼

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

*JUN 15 1998*

ONE DEPOSIT RECEIVED

*JUN 15 1998*

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK ► • Complete all applicable spaces (numbers 5-9) on the reverse side of this page.  
• See detailed instructions. • Sign the form at line 8.

DO NOT WRITE HERE  
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